

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6562

JOHN R. SMOOT, JR.,

Petitioner - Appellant,

versus

STATE OF MARYLAND; STATE OF NEW JERSEY;
GOVERNORS OF BOTH STATES; ATTORNEY GENERAL OF
BOTH STATES; WARDEN, as alleged as responsible
for present custody; ALL OTHER PERSONNEL KNOWN
AND UNKNOWN, as related and involved
individually or collectively,

Respondents - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Roger W. Titus, District Judge. (CA-03-
2708-RWT)

Submitted: June 24, 2004

Decided: July 2, 2004

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John R. Smoot, Jr., Appellant Pro Se. Susan Howe Baron, DEPARTMENT
OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, Baltimore, Maryland,
for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

John R. Smoot, Jr., seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition, for failure to exhaust state remedies. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order in a civil case to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on February 13, 2004. Giving Smoot the benefit of Fed. R. App. P. 4(c), the notice of appeal was filed on March 24, 2004. Because Smoot failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We deny Smoot's motion for a change of venue and for oral argument. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED